



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jerry W. Wiley
40900 Avenida Estrada
Palm Desert CA 92260

COPY MAILED

NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Jerry W. Wiley :
Application No. 10/724,597 :
Filed: December 1, 2003 :
For: Safety Travel Tailgate With Eagle Eye :
Perfect View Mirror :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 13, 2005, to withdraw the holding of abandonment.

The petition is **dismissed**.

This application became abandoned for failure to reply to the nonfinal Office Action mailed on October 19, 2004, which set a three-month shortened statutory period to respond. Accordingly, this application became abandoned on January 20, 2005. A Notice of Abandonment was mailed on June 14, 2005.

Under 37 CFR 1.181:

Petitioner contends that the delay occurred because the examiner did not provide him with copies of relevant patents as he requested in order to prepare his response. The Office notes the USPTO is not obligated to provide paper copies of patents or published applications free of charge to the public. Rather, pursuant to 37 CFR 1.19, any member of the public may submit a request for a copy of a patent or published application in writing with the appropriate fee set forth in 37 CFR 1.19(b) to the Office of Public Records or electronically on the USPTO web site (www.uspto.gov). For assistance, the Office of Public Records Customer Service can be contacted at (703) 308-9726 or (800) 972-6382 (8:30 am to 5:00 pm EST).

Additionally, the Office notes that the patents and published application requested by petitioner are available electronically on the USPTO web site (www.uspto.gov). Petitioner may view these documents via the Office's Public Patent Application Information Retrieval (PAIR).

The Office further notes that where an applicant contends that the application is **not in fact abandoned** (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. However, where there is **no dispute** as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

In the present case, petitioner has not established that the application is not in fact abandoned, but rather, is disputing the cause of abandonment. Accordingly, to revive this application, petitioner must file a petition under 37 CFR 1.137 with the appropriate petition fee.

The Office strongly suggests that petitioner file a petition under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding nonfinal Office action such as an amendment or continuing application.
- (2) **The petition fee in the amount of \$750.00;**
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

For petitioner's convenience, a form for filing a petition under 37 CFR 1.137(b) is enclosed.

Petitioner may wish to seek the advice of a registered patent attorney or agent to assist him in this matter and in prosecuting this application. Additionally, petitioner may wish to contact the Inventors Assistance Center at 800-786-9199 or 571-272-1000.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64 - Petition For Revival Of An Application For Patent Abandoned
Unintentionally